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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,936	06/27/2003	Joseph Musacchio	741287-30	4445
22204 7590 10/03/2007 NIXON PEABODY, LLP 401 9TH STREET, NW SUITE 900 WASHINGTON, DC 20004-2128			EXAMINER MCCORMICK, GABRIELLE A	
			ART UNIT	PAPER NUMBER
			3629	
			MAIL DATE	DELIVERY MODE
			10/03/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/606,936

Applicant(s)

MUSACCHIO, JOSEPH

Examiner

Gabrielle McCormick

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-78 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-78 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/19/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Status of Claims***

1. This action is in reply to the application filed on June 27, 2003.
2. Claims 1-78 are currently pending and have been examined.

### ***Information Disclosure Statement***

3. The Information Disclosure Statement filed on April 19, 2004 has been considered. An initialed copy of the Form 1449 is enclosed herewith.

### ***Drawings***

4. The drawings are objected to because Figures 2 – 8 contained handwritten notations. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1-14, 16, 21-39, 41,46-69, 71, 76-78** are rejected under 35 U.S.C. 103(a) as being unpatentable over Plunkett et al. (US Pub. No. 2002/0143752, hereafter referred to as "Plunkett") in view of Davis ("The future of salary surveys when jobs disappear". Compensation and Benefits Review. Saranac Lake: Jan/Feb 1997. Vol. 29, Iss. 1; pg. 18).
7. **Claims 1, 21 and 51:** Plunkett discloses
- *an employment salary database having salary data with associated information; (para. [0007])*
  - *a user interface module adapted to allow input of employment parameter information (para. [0007])*
  - *a processor adapted to generate a functional matched data set by searching said employment salary database (para. [0007]).*
8. Plunkett does not disclose *skill information or generate salary information based on salary data of said skill matched data set.*
9. Davis, however, in page 2, paragraph 7, discloses "designing compensation programs that are skill- or competency-based...".
10. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included matching salaries and skills, as disclosed by Davis in the system disclosed by Plunkett, for the motivation of providing a method of designing a compensation system that "is based on flexible work assignments related to employee skill levels..." (Davis; pg. 2; para. 2).

Art Unit: 3629

**11. Claim 46:** Plunkett discloses

- *an employment salary database having salary data; (para. [0007])*
- *user interface module adapted to allow input of employment parameter information (para. [0007]: )*
- *a processor (para. [0007])*
- *dividing at least a portion of said salary data in said employment salary database into predetermined percentile salary ranges and generate salary information based salary data of one of said predetermined percentile salary ranges. (para. [0034]).*

**12.** Plunkett does not disclose *at least one specific skill or a plurality of skill level categories or generate salary information based on said inputted skill level and salary data of one of said predetermined percentile salary ranges.*

**13.** Davis, however, in page 2, paragraph 2, discloses "skill levels" and in Exhibit 9, discloses correlating skill level categories to percentile salary ranges.

**14.** Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included correlating skill level categories to percentile salary ranges, as disclosed by Davis in the system disclosed by Plunkett, for the motivation of providing a method of designing a compensation system that "is based on flexible work assignments related to employee skill levels..." (Davis; pg. 2; para. 2).

**15. Claims 48 and 76:** Plunkett discloses

- *providing an employment salary database having salary data; (para. [0007])*
- *inputting employment parameter information; (para. [0030])*
- *generating salary information based on salary data (para. [0030]).*

**16.** Plunkett does not disclose *establishing plurality of skill level categories by dividing at least a portion of said salary data in said employment salary database or skill level information.*

**17.** Davis, however, in page 2, paragraph 7, discloses "designing compensation programs that are skill- or competency-based..."; in page 2, paragraph 2, discloses "skill levels" and in Exhibit 9, discloses correlating skill level categories to percentile salary ranges.

Art Unit: 3629

18. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included matching salaries and skill levels, as disclosed by Davis in the system disclosed by Plunkett, for the motivation of providing a method of designing a compensation system that "is based on flexible work assignments related to employee skill levels..." (Davis; pg. 2; para. 2).
19. **Claims 2, 22 and 52:** Plunkett in view of Davis discloses the limitations of Claims 1, 21 and 51, above. Plunkett does not disclose *skill level* or *skill level categories*.
20. Davis, however, in page 2, paragraph 2, discloses "skill levels".
21. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included skill levels, as disclosed by Davis in the system disclosed by Plunkett, for the motivation of providing a method of designing a compensation system that "is based on flexible work assignments related to employee skill levels..." (Davis; pg. 2; para. 2).
22. **Claim 3:** Plunkett in view of Davis discloses the limitations of Claims 2, above. Plunkett further discloses *dividing at least a portion of said salary data in said employment salary database into predetermined percentile salary ranges*. (para. 0034).
23. Plunkett does not disclose *correlating each of said predetermined percentile salary ranges to said plurality of skill level categories*.
24. Davis, however, in Exhibit 9, discloses correlating skill level categories to percentile salary ranges.
25. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included correlating skill level categories to percentile salary ranges, as disclosed by Davis in the system disclosed by Plunkett, for the motivation of providing a method of designing a compensation system that "is based on flexible work assignments related to employee skill levels..." (Davis; pg. 2; para. 2).
26. **Claim 4:** Plunkett in view of Davis discloses the limitations of Claim 3, above. Plunkett does not disclose *salary information based also on said inputted skill level, and salary data of one of said predetermined percentile salary ranges*.

Art Unit: 3629

27. Davis, however, in Exhibit 9, discloses correlating skill level categories to percentile salary ranges.
28. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included correlating skill level categories to percentile salary ranges, as disclosed by Davis in the system disclosed by Plunkett, for the motivation of providing a method of designing a compensation system that "is based on flexible work assignments related to employee skill levels..." (Davis; pg. 2; para. 2).
29. **Claims 5, 28 and 58:** Plunkett in view of Davis discloses the limitations of Claims 2, 21 and 51, above. Plunkett further discloses *job titles, and said inputted employment parameter information further includes a job title.* (para. [0030]).
30. **Claims 6, 30 and 60:** Plunkett in view of Davis discloses the limitations of Claims 5, 28 and 58, above. Plunkett further discloses *narrow said salary data by searching said employment salary database to identify salary data having said inputted job title associated thereto.* (para. [0030]).
31. **Claims 7, 29, 31, 59 and 61:** Plunkett in view of Davis discloses the limitations of Claims 5, 28, 30, 58 and 61, above. Plunkett further discloses *inputted job title.* (para. [0030]).
32. **Claims 8, 32 and 62:** Plunkett in view of Davis discloses the limitations of Claims 1, 22 and 52, above. Plunkett further discloses *location data, and said inputted employment parameter information further includes location information.* (para. [0030]).
33. **Claims 9, 34 and 64:** Plunkett in view of Davis discloses the limitations of Claims 8, 32 and 62, above. Plunkett further discloses *narrow said salary data by searching said employment salary database to identify salary data having said inputted location data associated thereto.* (para. [0030]).
34. **Claims 10, 33, 35, 63 and 65:** Plunkett in view of Davis discloses the limitations of Claims 8, 32, 34, 62 and 64, above. Plunkett further discloses *inputted location information.* (para. 0030)).

35. **Claims 11, 36 and 66:** Plunkett in view of Davis discloses the limitations of Claims 1, 22 and 52, above. Plunkett further discloses *a data miner adapted to periodically mine employment salary data*. (para. [0027]: Note: data mining is the process of analyzing data to identify patterns or relationships. In this reference, the gathering and categorizing of compensation data by job title and location accomplishes this task.)
36. **Claims 12, 13, 37, 38, 67 and 68:** Plunkett in view of Davis discloses the limitations of Claims 11, 36 and 66, above. Plunkett further discloses storing mined data and mining through a distributed network. (para. [0027]).
37. **Claims 14, 39 and 69:** Plunkett in view of Davis discloses the limitations of Claims 11, 36 and 66, above. Plunkett further discloses *job listings*. (para. [0036]).
38. **Claims 16, 41 and 71:** Plunkett in view of Davis discloses the limitations of Claims 1, 21 and 51, above. Plunkett further discloses *an average annual salary*. (para. [0032]).
39. **Claims 23, 49, 53 and 77:** Plunkett in view of Davis discloses the limitations of Claims 22, 48, 52 and 76, above. Plunkett further discloses *dividing at least a portion of said salary data in said employment salary database into predetermined percentile salary ranges*. (para. 0034)).
40. **Claims 24, 47 and 54:** Plunkett in view of Davis discloses the limitations of Claims 23, 46 and 53, above. Plunkett does not disclose *correlating each of said predetermined percentile salary ranges to said plurality of skill level categories*.
41. Davis, however, in Exhibit 9, discloses correlating skill level categories to percentile salary ranges.
42. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included correlating skill level categories to percentile salary ranges, as disclosed by Davis in the system disclosed by Plunkett, for the motivation of providing a method of designing a compensation system that "is based on flexible work assignments related to employee skill levels..." (Davis; pg. 2; para. 2).
43. **Claims 25 and 55:** Plunkett in view of Davis discloses the limitations of Claims 23 and 53, above. Plunkett further discloses *predetermined percentile salary ranges*. (para.[0034]).



Art Unit: 3629

44. **Claims 26, 27, 50, 56, 57 and 78:** Plunkett in view of Davis discloses the limitations of Claims 22, 49, 52 and 77, above. Plunkett does not disclose *a skill level or an inputted skill level*.
45. Davis, however, in Exhibit 9, discloses correlating skill level categories to percentile salary ranges.
46. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included correlating skill level categories to percentile salary ranges, as disclosed by Davis in the system disclosed by Plunkett, for the motivation of providing a method of designing a compensation system that "is based on flexible work assignments related to employee skill levels..." (Davis; pg. 2; para. 2).
47. **Claims 15, 40 and 70** are rejected under 35 U.S.C. 103(a) as being unpatentable over Plunkett et al. (US Pub. No. 2002/0143752, hereafter referred to as "Plunkett") in view of Davis ("The future of salary surveys when jobs disappear". Compensation and Benefits Review. Saranac Lake: Jan/Feb 1997. Vol. 29, Iss. 1; pg. 18) in view of Johnston et al. ("A history of success for the federal job locator program". Journal of Career Planning & Employment. Bethlehem: Spring 1994. Vol. 54, Iss. 3; pg. 55).
48. **Claims 15, 40 and 70:** Plunkett in view of Davis discloses the limitations of Claims 11, 36 and 66, above. Plunkett does not disclose *employment histories*.
49. Johnston et al., however, in page 1, paragraph 6, discloses tracking wages students earned as a result of jobs.
50. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included employment histories, as disclosed by Johnston et al. in the system disclosed by Plunkett, for the motivation of explicitly citing where "compensation information of the various jobs are gathered" from. (Plunkett; para. [0027]).

Art Unit: 3629

51. **Claims 17, 42 and 72** are rejected under 35 U.S.C. 103(a) as being unpatentable over Plunkett et al. (US Pub. No. 2002/0143752, hereafter referred to as "Plunkett") in view of Davis ("The future of salary surveys when jobs disappear". Compensation and Benefits Review. Saranac Lake: Jan/Feb 1997. Vol. 29, Iss. 1; pg. 18) in view of Official Notice.
52. **Claims 17, 42 and 72:** Plunkett in view of Davis discloses the limitations of Claims 16, 41 and 71, above. Plunkett does not disclose *periodically updated*.
53. However, the Examiner takes **Official Notice** that it is old and well known in the database arts to periodically update information. Updating a database allows new and therefore, more pertinent data to be available to users for decision-making purposes. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to expand the invention of Plunkett with the process of updating for the motivation of providing up-to-date compensation information as a result of the periodic gathering of compensation information the invention already comprises. (Plunkett; para. [0027]).
54. **Claims 18, 19, 43, 44, 73 and 74** are rejected under 35 U.S.C. 103(a) as being unpatentable over Plunkett et al. (US Pub. No. 2002/0143752, hereafter referred to as "Plunkett") in view of Davis ("The future of salary surveys when jobs disappear". Compensation and Benefits Review. Saranac Lake: Jan/Feb 1997. Vol. 29, Iss. 1; pg. 18) in view of PR Newswire ("ComputerJobs.com Revolutionizes IT Career Management with New Skill Sites". PR Newswire. New York: Sep 22, 1999. pg.1).
55. **Claims 18, 19, 43, 44, 73 and 74:** Plunkett in view of Davis discloses the limitations of Claims 17, 42 and 72, above. Plunkett does not disclose *a ticker adapted to render said generated employment salary information or ticker renders at least one of direct labor hourly rate, highs and lows of said direct labor hourly rate, and amount of change in said direct labor hourly rate*.
56. PR Newswire, however, in page 2, paragraph 8, discloses a salary tracking ticker displaying "hourly wages in a specific skill-set area".

Art Unit: 3629

57. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a salary tracking ticker, as disclosed by PR Newswire in the system disclosed by Plunkett, for the motivation of "giving users timely information to gauge their own salary expectations." (PR Newswire; pg. 2; para. 8).
58. **Claims 20, 45 and 75** are rejected under 35 U.S.C. 103(a) as being unpatentable over Plunkett et al. (US Pub. No. 2002/0143752, hereafter referred to as "Plunkett") in view of Davis ("The future of salary surveys when jobs disappear". Compensation and Benefits Review. Saranac Lake: Jan/Feb 1997. Vol. 29, Iss. 1; pg. 18) in view of PR Newswire ("ComputerJobs.com Revolutionizes IT Career Management with New Skill Sites". PR Newswire. New York: Sep 22, 1999. pg.1), in further view of Knapp ("Why go it alone?" How. Cincinnati: Apr 2001. Vol. 16, Iss.2; pg. 28).
59. **Claims 20, 45 and 75:** Plunkett in view of Davis in view of PR Newswire discloses the limitations of Claims 18, 43 and 73, above. Plunkett does not disclose *an hourly pay rate that includes fees charged by an employment agency, and amount of fees charged by an employment agency as a percentage of an hourly pay rate.*
60. Knapp, however, in page 3, paragraph 1, discloses staffing agencies marking up hourly rates, where markups average about 30%.
61. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included employment agency fees coupled with an hourly rate, as disclosed by Knapp in the system disclosed by Plunkett, for the motivation of displaying the profit a staffing agency makes.

Art Unit: 3629

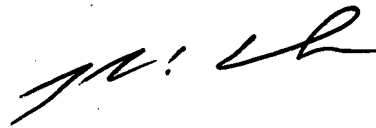
**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gabrielle McCormick whose telephone number is 571-270-1828. The examiner can normally be reached on Monday - Thursday (5:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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